

# CITY OF KETTERING

## AGREEMENT

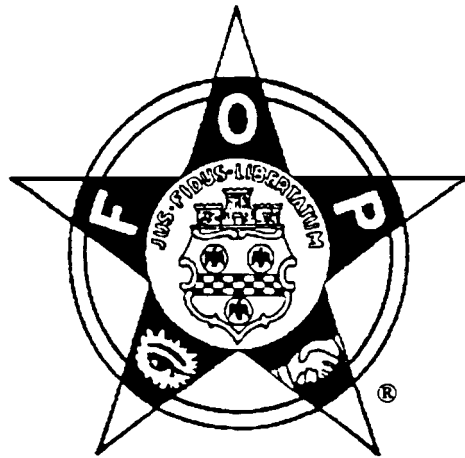
between

**City of Kettering, Ohio**

and

**Fraternal Order of Police**

**Kettering Lodge No. 92**



## Patrol Officer

**February 19, 2018 — February 14, 2021**

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## AGREEMENT

This Agreement is between the City of Kettering, Ohio (the "City") and the Fraternal Order of Police, Kettering Lodge No. 92 (the "Lodge"). The implementation of the portions of this Agreement regarding wages and fringe benefits is subject to enactment into appropriate ordinances by the City Council. "He," "his" and "him" shall include "she," "hers" and "her."

### ARTICLE 1 - COOPERATION

The City and the Lodge each agrees to use its best efforts to serve the citizens of the City and the public in general, to achieve better understanding between the City, the Lodge and the employees represented by the Lodge; to assure the proper and uninterrupted functions of the services of the City; and to promote mutual respect and fair dealing among the City, the Lodge and the employees represented by the Lodge.

### ARTICLE 2 - RECOGNITION, NO LOCKOUT, DUES DEDUCTION

Section 1. The City recognizes the Lodge as the exclusive bargaining agent for the purpose of negotiating wages, hours, fringe benefits and other terms and conditions of employment for all sworn Patrol Officers and those sworn officers of equivalent rank. The coverage of this contract shall be limited to the employees included within the bargaining unit described above.

Section 2. No Lockout. During the term of this Agreement, the City will engage in no lockout of the Patrol Officers covered by this Agreement.

Section 3. Dues Deduction. During the period this Agreement is in effect, the City will deduct the regular annual Lodge dues from the wages of employees who individually and voluntarily authorize and direct such deductions in writing. The authorization and direction shall be revocable by the employee upon 10 days written notice to the City. The City shall notify the Lodge upon receipt of such request. The Lodge shall hold the City harmless from any liability arising out of any action taken by it or omitted by it in compliance with or in an attempt to comply with the provisions of this Section.

### ARTICLE 3 - MANAGEMENT SECURITY

Section 1. Management Rights. This Section, and any other provision in this Agreement relating to management rights, including Articles 9 and 15, are solely intended to supplement the rights of management granted in Section 4117.08 Ohio Revised Code. This does not constitute bargaining about any of the rights protected by 4117.08 and is not a waiver of the City's right to refuse to bargain about any and all of the rights contained in that section. The management and direction of the affairs of the City are retained by the City. This includes, but is not limited to: the selection, transfer, assignment and layoff of Patrol Officers, the termination of probationary Patrol Officers, the termination for just cause of other Patrol Officers; the making, amending and enforcement of reasonable work rules and regulations; the securing of the revenues of the City; the exercise of all functions of government granted to the City by the constitution and statutes of the State of Ohio and the City Charter; the determination from time to time as to what services the City shall perform; the establishment or continuation of policies, practices or procedures for the conduct of its affairs and from time to time, the changing or abolition of such practices or procedures; the purchasing and maintaining of adequate and safe equipment; the determination of the number of hours per day or week any operation may be carried on; the selection and determination of the number and types of Patrol Officers required; the establishment of training programs and upgrading requirements for employees; the establishment and the changing of work schedules and assignments; the contracting for the performance of such work as the City determines advisable and the taking of such other measures as the City and/or Management may determine to be necessary for the orderly and

efficient operation of the City; and the determination of the size and composition of the work force. The City retains all rights except to the extent this Agreement specifically and expressly provides to the contrary. The City will not use this Section to contravene individual rights granted by this Agreement or otherwise by law.

Section 2. The expressing of any views, argument, or opinion, or the dissemination thereof, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of an unfair labor practice under any of the provisions of this Act (Ohio Revised Code 4117), if such expression contains no threat of reprisal or force or promise of benefit.

Section 3. No Strike.

- (a) There will be no strikes of any kind. This includes sympathetic strikes and strikes for foreseeable or unforeseeable reasons. “Strikes” include any work stoppage, slowdown, picketing, or any other concerted activity or attempted concerted activity which would interrupt or limit the performance of services. This Section is for the benefit of the City and the public it serves, and is in addition to all other rights provided them by law.

- (b) Lodge Responsibility.

The Lodge will use its best efforts to prevent any violation of this Section and to stop any violation if one occurs. If there is a violation of this Section, the Lodge will publicly denounce the strike and will provide the City with written notice that the strike is not authorized, is in violation of this agreement, and is not to be honored. If the Lodge carries out its obligations under this Section, it shall have no financial liability for the violation.

- (c) Employee Discipline.

The City shall have the right to discharge, demote, suspend, fine or otherwise discipline employees for violation of this Section. A suspension for a certain number of working days may at the City’s option be enforced by the forfeiture of an equal number of days of paid vacation or paid holidays or other paid time off. An employee disciplined under this Section may file a grievance, but only on a claim that he did not violate this Section. The discipline imposed may not be overturned if the employee did violate this Section, and the arbitrator or any other reviewing tribunal under the grievance procedure shall have no authority or jurisdiction to reduce or modify the discipline if the employee did violate this Section.

- (d) Restraining Violations.

If the City claims this Section is violated, it may at its option obtain an immediate arbitration hearing. To do so it shall give the Lodge written or electronic notice of its claim and request the American Arbitration Association to appoint an arbitrator to hear and decide the claim on an emergency basis. The hearing shall be held within 48 hours or as soon after that as possible. The parties shall not file and the arbitrator shall not receive post-hearing briefs about the issuance of an immediate restraining order. The arbitrator shall rule from the bench and, if he finds that this Section has been violated, he shall immediately issue an award prohibiting continuation or resumption of the strike. The arbitrator shall continue the hearing (and may request post-hearing briefs) on the issue of damages. This arbitration provision does not affect the City’s right to seek direct relief, injunctive or otherwise, in the courts or elsewhere.

## ARTICLE 4 - LODGE BUSINESS

Section 1. The Lodge may select one representative per watch and an alternative representative for each to act in his absence. One representative may be named as Chief Representative. These representatives shall be certified to the City in writing. Only those representatives certified by the Lodge in writing will be permitted to conduct business on behalf of the Lodge. The City may, when it is necessary, reassign Patrol Officers from one watch to another and no restriction of that right is implied by this Section. The City will not transfer a representative to another watch because of the fact that he has been chosen as a representative. If a representative is transferred, then the selection of another will be immediately allowed.

Section 2. In cases of any disciplinary action or grievances, the representative shall be allowed reasonable time without loss of pay to investigate a grievance, or consult with the City in processing a grievance, if he first receives permission from his supervisor. Such permission will not be unreasonably denied. When an employee is directed to participate in an investigatory interview or interrogation with a supervisor and either party reasonably believes and states that information which is to be discussed may result in disciplinary action of severity greater than reprimand of record, or at the time an employee is to receive a reprimand of record, the watch representative will be present upon the request of the Patrol Officer or the supervisor so long as the watch representative is promptly available. Denial of representation in accordance with this section shall be subject to the grievance procedure; however, failure of compliance with any aspect of this provision shall not void disciplinary action imposed for just cause.

Section 3. The City shall provide the Lodge with a list of new Patrol Officers within a reasonable time after new Patrol Officers are hired. The Lodge shall furnish the City with a current copy of its Constitution and By-laws with changes within a reasonable time. The Lodge shall be provided with current copies of all liability, medical, life and health insurance policies that apply to members of the bargaining unit.

Section 4. The Lodge will identify the members of its negotiating team at the time it provides the City with written notice of a desire to renegotiate terms of this agreement. No more than five (5) Patrol Officers shall be included on the Lodge negotiating team. The City will transfer up to three (3) Patrol Officers (more than three (3) officers with the approval of the Chief of Police) working shifts other than day shifts to day shifts on the days negotiations take place and allow members of the Lodge negotiating team time without loss of pay to participate in negotiation meetings with the City. If an agreement is not reached through negotiations, including mediation, the City will allow time without loss of pay for meetings called by a Fact Finding Panel or Conciliator for only the Lodge's chief negotiator (or his delegate) and one other member of the Lodge's negotiating team.

Section 5. Lodge Officers. Sufficient time off shall be granted to any three (3) elected officers of the Lodge who are employees covered hereunder for the purpose of attending and conducting regular or special meetings of the Lodge, provided, however, a 48-hour notice is given to the Chief of Police and such release from duty is subject to the scheduling requirements in the interest of efficient operation of the Department.

Section 6. Lodge Leave. The City shall accredit to a leave fund three (3) hours of leave from each Lodge member's vacation time, per calendar year. These hours will be deducted from the member's leave each anniversary date of the contract. Any unused hours in the fund shall be carried over into the next year but no more than 20 days can be accumulated. This leave will be for use by the Lodge at any time during the year for such functions as conventions, educational meetings, legislative hearings, conferences, and others as deemed necessary by the Lodge.

The Lodge may utilize the aforementioned provision by the President of the Lodge making a written request to the Chief of Police indicating who shall be using the leave, the times and dates of the requested leave, the total number of hours to be utilized and the specific purpose for the leave. Such leave shall be reviewed for approval on the same basis as vacation leave.

Section 7. A Lodge representative shall accompany management on any administrative searches of lockers or desks. This provision does not apply in criminal matters.

ARTICLE 5 - WAGES

Section 1. Effective retroactive to February 19, 2018, basic rates of pay shall be increased by 2.50% as follows:

| PAY<br>GRADE | BASIS | A/1     | B/2     | C/3     | D/4     | E/5     | F/6     | G/7     |
|--------------|-------|---------|---------|---------|---------|---------|---------|---------|
| 304          | Hour  | \$31.66 | \$33.06 | \$34.55 | \$36.03 | \$37.46 | \$39.78 | \$41.52 |
|              | Year  | 65,853  | 68,765  | 71,864  | 74,942  | 77,917  | 82,742  | 86,362  |

The basic rates of pay for a Patrol Officer who holds an Associate Degree and has satisfactorily completed two years as a Kettering Patrol Officer shall be as follows:

| PAY<br>GRADE | BASIS | A/1 | B/2 | C/3 | D/4     | E/5     | F/6     | G/7     |
|--------------|-------|-----|-----|-----|---------|---------|---------|---------|
| 305          | Hour  |     |     |     | \$36.52 | \$37.97 | \$40.37 | \$42.13 |
|              | Year  |     |     |     | 75,962  | 78,978  | 83,970  | 87,630  |

The basic rates of pay for a Patrol Officer who holds a Baccalaureate Degree and has satisfactorily completed two years as a Kettering Patrol Officer shall be as follows:

| PAY<br>GRADE | BASIS | A/1 | B/2 | C/3 | D/4     | E/5     | F/6     | G/7     |
|--------------|-------|-----|-----|-----|---------|---------|---------|---------|
| 306          | Hour  |     |     |     | \$37.04 | \$38.56 | \$41.00 | \$42.75 |
|              | Year  |     |     |     | 77,043  | 80,205  | 85,280  | 88,920  |

Effective February 18, 2019, basic rates of pay shall be increased by 2.50% as follows:

| PAY<br>GRADE | BASIS | A/1     | B/2     | C/3     | D/4     | E/5     | F/6     | G/7     |
|--------------|-------|---------|---------|---------|---------|---------|---------|---------|
| 304          | Hour  | \$32.45 | \$33.89 | \$35.41 | \$36.93 | \$38.40 | \$40.77 | \$42.56 |
|              | Year  | 67,496  | 70,491  | 73,653  | 76,814  | 79,872  | 84,802  | 88,525  |

The basic rates of pay for a Patrol Officer who holds an Associate Degree and has satisfactorily completed two years as a Kettering Patrol Officer shall be as follows:

| PAY<br>GRADE | BASIS | A/1 | B/2 | C/3 | D/4     | E/5     | F/6     | G/7     |
|--------------|-------|-----|-----|-----|---------|---------|---------|---------|
| 305          | Hour  |     |     |     | \$37.43 | \$38.92 | \$41.38 | \$43.18 |
|              | Year  |     |     |     | 77,854  | 80,954  | 86,070  | 89,814  |

The basic rates of pay for a Patrol Officer who holds a Baccalaureate Degree and has satisfactorily completed two years as a Kettering Patrol Officer shall be as follows:

| PAY   |       |     |     |     |         |         |         |         |
|-------|-------|-----|-----|-----|---------|---------|---------|---------|
| GRADE | BASIS | A/1 | B/2 | C/3 | D/4     | E/5     | F/6     | G/7     |
| 306   | Hour  |     |     |     | \$37.97 | \$39.52 | \$42.03 | \$43.82 |
|       | Year  |     |     |     | 78,978  | 82,202  | 87,422  | 91,146  |

Effective February 17, 2020, basic rates of pay shall be increased by 2.50% as follows:

| PAY   |       |         |         |         |         |         |         |         |
|-------|-------|---------|---------|---------|---------|---------|---------|---------|
| GRADE | BASIS | A/1     | B/2     | C/3     | D/4     | E/5     | F/6     | G/7     |
| 304   | Hour  | \$33.26 | \$34.74 | \$36.30 | \$37.85 | \$39.36 | \$41.79 | \$43.62 |
|       | Year  | 69,181  | 72,259  | 75,504  | 78,728  | 81,869  | 86,923  | 90,730  |

The basic rates of pay for a Patrol Officer who holds an Associate Degree and has satisfactorily completed two years as a Kettering Patrol Officer shall be as follows:

| PAY   |       |     |     |     |         |         |         |         |
|-------|-------|-----|-----|-----|---------|---------|---------|---------|
| GRADE | BASIS | A/1 | B/2 | C/3 | D/4     | E/5     | F/6     | G/7     |
| 305   | Hour  |     |     |     | \$38.37 | \$39.89 | \$42.41 | \$44.26 |
|       | Year  |     |     |     | 79,810  | 82,971  | 88,213  | 92,061  |

The basic rates of pay for a Patrol Officer who holds a Baccalaureate Degree and has satisfactorily completed two years as a Kettering Patrol Officer shall be as follows:

| PAY   |       |     |     |     |         |         |         |         |
|-------|-------|-----|-----|-----|---------|---------|---------|---------|
| GRADE | BASIS | A/1 | B/2 | C/3 | D/4     | E/5     | F/6     | G/7     |
| 306   | Hour  |     |     |     | \$38.92 | \$40.51 | \$43.08 | \$44.92 |
|       | Year  |     |     |     | 80,954  | 84,261  | 89,606  | 93,434  |

Section 2. Minimum service requirements at Patrol Officer Pay Steps for eligibility to qualify for advancement to the next higher Pay Step are as follows:

- A - 6 months
- B - 6 months
- C - 12 months
- D - 12 months
- E - 12 months
- F - 12 months

Section 3. Patrol Officers assigned to a shift in which one-half (1/2) or more of the working hours are between 3:00 p.m. and 8:00 a.m. shall receive ninety cents (90¢) per hour in addition to the basic straight time rates for those hours worked between 3:00 p.m. and 8:00 a.m.

Section 4. Weekend Differential. Patrol Officers shall receive thirty cents (30¢) per hour in addition to basic straight time rates and applicable shift differential rates for all hours worked between 12:01 a.m. Saturday and 12:00 Midnight Sunday.

Section 5. Except in the case of necessary appearances in court and emergency special duty assignments, the normal day for a Patrol Officer will be eight hours. Patrol Officers assigned to a watch will be required to report for roll call fifteen minutes prior to their scheduled shift. Those Patrol Officers will continue to receive a lunch period at a time during the shift as approved by the supervising officer. If, due to an emergency, no lunch period can be scheduled, fifteen minutes of overtime pay will be granted.

Section 6. For each six (6)-minute interval worked, beginning after the regular end of the shift, Patrol Officers will be paid overtime for one-tenth of an hour at the rate of time and one-half regular pay (commencing with the end of the shift) except that any Patrol Officer required to work over eight (8) hours on any given holiday will be paid at the rate of two (2) times the regular rate.

Section 7. Normal Work Week. The normal work week consists of an average of 40 hours. Patrol Officers who work a straight 40-hour week shall be paid at time and one-half their straight time rate for all hours worked in excess of 40 straight time hours. Patrol Officers on multiple-week cycles shall be paid at time and one-half their straight time rates for all hours worked in excess of the average 40 straight time hours per week during the cycle. An officer who is scheduled to work on a holiday will be paid time and one-half his regular rate, and an officer who is scheduled to be off work on a holiday and is then required to work on that holiday will be paid at double his regular rate. No overtime premium pay shall be owing under this or any other section as a result of swapping shifts.

Section 8. Emergency stand-by time is defined as commencing when an off-duty Patrol Officer is notified to maintain contact with the Police Division for possible call-in for immediate reporting for duty in an emergency situation until the Patrol Officer is either directed to report for duty or released from emergency stand-by status. The Patrol Officer on emergency stand-by will be paid at 0.2 times the regular rate. Any Patrol Officer who is called in for emergency duty will receive a minimum of two (2) hours pay at time and one-half rate.

Section 9. Call-in pay is payment for work assigned by the Chief or his designated representative and performed by an employee at a time disconnected from his normal and prescheduled work hours, but does not apply to call-ins due to the employee's fault or neglect. Any employee who is called in for such work will receive a minimum of two (2) hours pay at time and one-half rate.

Section 10. Whenever it is necessary for an off-duty Patrol Officer to appear either in the Municipal Court or any other official court on matters pertaining to police business, or to appear before the Prosecutor for a pre-trial conference, the officer shall prepare an overtime record form and submit it to his immediate commanding officer for approval. This form shall be filled out completely, wherever possible, and under "Remarks" the officer shall enter any additional details and the type charge, i.e.: speeding, DWI, etc., and the Court's disposition, if available. A minimum of four hours overtime shall be credited per appearance day, at the rate of time and one-half. If the time required for court appearance shall exceed four hours, the officer shall be paid for actual time spent at the standard rate of overtime (time and one-half). This form shall be prepared in duplicate. The original shall be forwarded by the commanding officer to the officer in charge of the section to which he belongs and the duplicate shall remain with the requesting officer as a matter of record.

Section 11. Officer-In-Charge. A Patrol Officer who has been assigned to serve as Officer-In-Charge by the Chief of Police, or his designate, shall receive one dollar (\$1.00) per hour in addition to his appropriate hourly rate for each whole or fraction of an hour which he works as Officer-In-Charge.

Section 12. Uniform Allowance. Patrol Officers will be paid a uniform allowance of \$1,500.00 per year. This allowance will be paid to each Patrol Officer after the first year of service, in four equal payments, with such payments to be included with the pay for the second Pay Period of each quarter.

Section 13. Weapon Allowance. Each newly hired Patrol Officer will be issued an off-duty weapon selected by the City which shall remain the property of the City.



Section 14. Comp Time. Each Patrol Officer may accumulate compensatory time instead of payment for overtime (“Comp time”). Comp time will be accumulated at the rate at which overtime is paid (1.5 regular rate, 2 times regular rate for unscheduled holiday hours).

No more than 240 hours may be stored in an Officer’s comp time bank at any one time. When an Officer leaves the City employment, the balance of his comp time will be paid to him at the rate specified in Section 7(o)(4) of the Fair Labor Standards Act, or any successor provision then in effect. Once the maximum of 240 hours is reached, all further overtime will be paid.

The decision whether to be paid for overtime or to receive comp time is the Patrol Officer’s.

Comp time may be scheduled in the same manner as a vacation.

Section 15. Direct Deposit of Payroll & Electronic Distribution of Paystubs. If required by the City all payroll payments will be direct deposited in an account of the employee’s choice in compliance with the guidelines established by the City of Kettering Finance Department. Paystubs may be distributed electronically.

Section 16. Scheduling Flexibility.

- 1) 10-hour day. The parties agree that the Chief may implement a 10-hour schedule that would modify the regular work day from an 8-hour day to a 10-hour day. If implemented, the parties will enter into a Letter of Understanding to address necessary contract modifications to account for a 10-hour day.
- 2) Experimental Work Weeks. A designated team comprised of labor and management representatives may make recommendations to the Chief for experimental work cycles or work week schedules for employees normally and customarily working under the current schedule. The Chief may put such schedules into operation, and may do so on a trial basis. All recommendations will receive fair consideration.

If work days longer or shorter than 8 hours are a part of a regular schedule, sick leave, vacation leave, personal leave and other time off will continue to be paid at the rate of one hour of accrued leave for each hour of actual leave taken. One day of accrued leave or personal leave entitles the employee to eight hours of leave.

The experimental work week concept does not diminish any of the City’s management rights.

## ARTICLE 6 - HOLIDAYS

Section 1. The following ten (10) days are recognized as paid holidays under this Agreement: New Year’s Day; Dr. Martin Luther King, Jr. Day (3<sup>rd</sup> Monday in January); Presidents’ Day (3<sup>rd</sup> Monday in February); Memorial Day (Last Monday in May); Independence Day; Labor Day; Thanksgiving Day (4<sup>th</sup> Thursday in November); December 24; Christmas Day; December 31.

Section 2. Holiday Time Off. All officers in the department will normally be scheduled to work holidays when a part of their normal shift schedules. Effective immediately, up to two holidays per year for each officer may be traded by the officer for two days off with regular pay to be scheduled by the Chief as available and taking the officer’s desired dates into consideration. An officer may elect to work any day which has been scheduled as a traded day off if at least one week’s written notice is given to the supervisor and the office of the Chief.

Section 3. Personal Leave Days. Each full-time employee shall be entitled to five (5) days of paid personal leave annually. Such leave must be approved in advance by the City. Paid personal leave may be taken in not less than one-half (1/2) day periods and may not be accumulated or carried forward to another year. The Chief of Police or his designate will strive in good faith to grant personal leave days as requested, consistent with meeting the requirements of the working schedule, except that there shall be no obligation to give consideration to requests for personal leave made less than one hour before the beginning of the Patrol Officer's shift in which the personal leave time is requested. The City shall strive to notify the officer of the decision to approve or disapprove the leave as soon as reasonably possible after the request. No personal leave days having been approved will be cancelled except in cases of emergency as determined by the Chief of Police or a command officer acting in his absence.

ARTICLE 7 - VACATIONS

Section 1. Effective as soon as practicable, following the execution of this Agreement, vacation leave will be accumulated for uninterrupted employment on the following basis; in the meantime, provisions under the prior Agreement shall apply.

| <u>Length of Service</u>   | <u>Rate of Accumulation<br/>(Days per Month)</u> |
|----------------------------|--|
| Less than 5 years          | .83  |
| Over 5 and up to 10 years  | 1.17   |
| Over 10 and up to 15 years | 1.50   |
| Over 15 and up to 20 years | 1.75   |
| Over 20 years              | 2.08   |

Section 2. Vacation leave accrued and vacation leave taken will be accounted for on a vacation year basis. The vacation year extends from the first day of the pay period closest to October 1st of one calendar year through the last day of the pay period closest to September 30th of the following calendar year. A Patrol Officer may not use leave during the first 90 calendar days following his initial appointment or following his reappointment after a break in service; in other cases, eligibility to use vacation leave commences in the first month following accrual.

Section 3. A Patrol Officer may carry accumulated vacation leave forward to the next vacation year. The total amount of accrued leave carried forward will not, however, exceed 30 days at the beginning of any vacation year, except that when a Patrol Officer has provided the City with written notice of his commitment to retire on a specific date in which case no limit shall be placed on the accumulation of his vacation leave from the date of receipt of such notice of his retirement date or for the period of one year preceding his retirement date, whichever is shorter. Except as otherwise provided, accrued leave in excess of thirty (30) days is dropped and lost on the last day of each vacation year.

Patrol Officers who leave City employment after completing six (6) months of service are entitled to compensation, at their base rate of pay, for any accrued but unused vacation leave. Deceased Patrol Officers who have completed six (6) months of service shall have any accrued but unused vacation leave paid to their Estate, at their base rate of pay, through the payroll process. Patrol Officers who leave City employment prior to completing six (6) months of service shall have their vacation leave balance set to zero (0).

Section 4. A Patrol Officer shall be credited with a completed month of service if he is on the payroll half or more of his scheduled work days in any one month. When a Patrol Officer reaches an anniversary date entitling him to an increased rate of accumulation, he shall be credited with the increased rate for that month if his anniversary date falls on or before the 16th of the month. Otherwise, he will be credited

at the increased rate beginning with the next month. Eligibility to use this additional accumulation begins on the first month following the increased rate of accumulation.

Section 5. Vacation/Sick Leave. If a Patrol Officer is hospitalized while on vacation, he may change his status from “vacation” to “sick leave” for actual scheduled work days hospitalized.

Section 6. Priority Protection Scheduling. Requests for desired vacation dates are to be submitted by the end of January. Blocks of at least five (5) consecutive days must be requested for preferred scheduling. The Police Chief will strive, barring emergencies, to assure such approved vacations, and will provide reasons for cancellation of any approved vacation. Patrol Officers canceling previously approved vacations will in turn also provide reasons for the cancellations.

Late Scheduling. All vacation requests submitted after the cut-off date will be at the discretion of the Police Chief as scheduling permits, but in any case must be in units of at least one (1) day.

Section 7. Seniority. Conflicting vacation requests, if made by January 31, will be resolved by seniority. Seniority means the total time employed as a police officer for the City of Kettering.

ARTICLE 8 - SICK LEAVE, INJURY LEAVE  
FUNERAL LEAVE, MEDICAL AND DENTAL INSURANCE COVERAGE,  
AND LIFE INSURANCE

Section 1. All sworn Patrol Officers shall accrue sick leave at the rate of one and one-quarter (1 1/4) days per month of service but not to exceed a total of 260 days.

Section 2. Sick leave may be used for absences due to illness, injury, or exposure to a contagious or communicable disease, or emergency due to serious illness of a member of the immediate family where the employee’s presence is extremely essential, but a doctor’s certificate to substantiate periods of three consecutive days or more may be required by the City, and may also be required for a period of one day in the following cases:

- a. For probationary employees;
- b. If it is believed that an employee is malingering based upon repeated one or two day absences; or
- c. Multiple absences on a single day (5 or more employees).

Section 3. In case of any illness or other absence, the employee shall notify his department as soon as possible on the first day of absence unless it is impossible to do so, in which case notice shall be given as soon as possible. If the absence extends beyond one day, the employee shall make periodic reports to his department on his progress and anticipated date of return. Patrol Officers will be required to notify their department if possible at least one hour prior to their scheduled starting time so that replacement help may be provided. Failure to notify a department of the reason for absence may be grounds for refusal to pay leave.

Section 4. Nothing shall prevent the City from investigating sick leave.

Section 5. Fraction of a day. Absence for a fraction of a day is chargeable to sick leave in accordance with these provisions and shall be charged in amounts not smaller than one-quarter (1/4) of a day two hours (2), rounded to the closest two hour (2) period.

Section 6. Reinstatement Credit. A Patrol Officer who is laid off will, upon reinstatement to service, have any unused sick leave existing at the time of his layoff placed to his credit.

Section 7. Transfer Credits. Upon transfer from one division or department to another, unused sick leave days shall continue to be available for the transferred employee's use.

Section 8. Funeral Leave. Leave with pay may be requested by a Patrol Officer when absence is required because of the death of a relative. Such leave may be granted for a period not to exceed five (5) days for the death of a spouse, child, step child, parent or parent-in-law, three (3) days when the death is within the immediate family (other than spouse, child, step child, parent or parent-in-law), and up to one (1) full day for a more distant relative. A leave report form indicating relationship to the deceased will be submitted by the Patrol Officer at the earliest practical time. The Chief of Police is authorized to rule on such requests for paid leave. Immediate family is spouse, parent, child, brother, sister, mother-in-law, father-in-law, grandparent, grandparent-in-law, stepchild, grandchild, half-brother, half-sister, brother-in-law, sister-in-law, or other relative living in the same household. Brother-in-law and sister-in-law are defined as spouse's sibling or sibling's spouse. The Chief of Police, in his sole discretion, may extend the definition of immediate family to family members other than those specifically named or to persons who act in the role of those named in the immediate family.

Section 9. Payment of Accumulated Sick Leave at Death. One-half (1/2) of the accumulated Sick Leave through up to 260 days shall be paid to a designated beneficiary upon the death of a current employee. Such payment will be in a lump sum based upon the employee's hourly rate of pay at the time of death (excluding any premium pay). If there is no valid written designation of beneficiary on file, or if the designation is for any reason ineffective, the payment shall be made to the employee's estate except that the City may authorize the payment of such amount to any one or more of the following: the surviving spouse, adoptive parents, lineal descendants by adoption, or blood relatives of the employee, or a beneficiary to receive payments after the death of the employee under the State Retirement System, and any such payment shall be in complete discharge of liability with respect to the amount so paid.

Section 10. Payment for Accumulated Sick Leave at Retirement. At retirement, a Patrol Officer who has accumulated 50 or more days sick leave may convert one-third (1/3) of all accumulated sick leave days in excess of 50 days and up through 260 days for a lump sum payment. This provision does not apply to service separations other than retirement.

Section 11. Birthing Parent Leave. Any pregnant regular full-time Patrol Officer shall be entitled to birthing parent leave. The starting date and duration of birthing parent leave shall be determined by the City based upon the request of the employee and the recommendation of the employee's doctor. For birthing parent leave, as for any foreseeable leave due to disability, the employee shall notify the City as far in advance as is possible of the expected dates of the leave and City may require a medical examination by a physician acceptable to the City as a condition of approving or extending the leave or return to work. Any non-routine City-required examinations shall be paid in full by the City. Accumulated sick leave may be utilized by a regular full-time Patrol Officer for that period of time the employee is temporarily disabled due to the employee's pregnancy.

Depending on the condition of the employee and consistent with recommendation provided by the employee's doctor, the City will assign the employee to other reasonably available duties in the department.

Section 12.

- A. Special Leave. Leave without pay for personal reasons may be granted by the City Manager or his designate upon request for periods not in excess of ninety (90) calendar days. Employees

absent due to illness may be granted such leave after sick leave has expired. Such leave may be extended or renewed beyond a total of ninety (90) calendar days only upon the express approval of the City Manager or his designate. Upon return from such leave, the employee will be reinstated in his old position or one of equal grade subject to the same conditions with respect to layoff, etc., which are applicable to an active employee.

- B. Sick Leave Bank. In the event the City would implement a City-wide catastrophic sick leave bank during the term of this contract, Patrol Officers may participate in such a bank.

Section 13. Directed Care or Examination. If the City directs a Patrol Officer to go to a doctor or other facility for treatment, the doctor or facility shall be agreeable to both the Officer and the City.

Section 14. Health and Dental Insurance. The City shall make available to all eligible employees and their dependents health insurance programs to include medical, prescription and dental coverage subject to the applicable carriers' requirements and eligibility. The plan coverage and premium as determined by the City will be the same as that provided to all non-bargaining unit employees. Deductibles, out-of-pocket maximums, and co-pay structures are components of plan design. As such they will be established by the City and will be the same as those for non-bargaining unit employees. The City has the right to insure or self-insure and to choose the insurance carriers, third-party administrators, network of physicians or providers, or any other operational components of the Medical and Dental Plans.

The City shall pay 90% and the employee shall pay 10% of the premium for the Dental Insurance Plan. Effective as of January 1, 2018, if the City changes the premium for dental plan, the dental premium for these bargaining unit employees shall be the same as the non-bargaining unit employees.

Effective January 1, 2018 and through the duration of the agreement, the City shall pay 83% and the employee shall pay 17% of the premiums for the Medical Insurance Plan. If however, the City reduces the Medical Insurance Plan employee premium share below 17% for non-bargaining unit employees, such reduction shall also apply to the Patrol Officers.

Effective January 1, 2018 the City will fund 65% of the employee's High Deductible Platinum Health Plan network deductible by placing \$1300/yr. single and \$2600/yr. family into a Health Savings Account (HSA).

Effective January 1, 2019 the City will fund the employee's HSA at no less than 60% of the network deductible of the High Deductible Platinum Health Plan (other plans excluded). In the event it is necessary in insurance plan year 2019, 2020 and/or 2021 to reduce the City's share of the HSA funding on the High Deductible Platinum Health Plan below 55% in order to avoid the "Cadillac" excise tax pursuant to the Affordable Care Act, the City may at its option reduce the funding percentage to not less than 50%.

The network deductible of the High Deductible Health Plan shall not exceed \$2500 for a single plan and \$5000 for a family plan for plan years 2019, 2020 and 2021.

HSA's will be funded on a prorated basis, under a banking arrangement selected by the City. The City will pay all routine charges for the banking arrangement such as set up charges and routine monthly fees, with the employee responsible for other charges such as overdrafts, checks and investment fees. Once placed in the employee's HSA, the money becomes the possession of the employee, and as such, money the employee does not spend in the HSA for medical expenses is carried forward for future years use and is the employee's to take with him or her at termination, as authorized by then current IRS and other controlling state and federal regulations. Under circumstances where the employee does not have adequate funds in the HSA for expenses incurred before the end of the year, due to legitimate

expenditures to meet the deductible, the City will contribute an amount to the account, at the employee's request, up to the annual City contribution limits specified above.

Employees joining the City mid-year, eligible for health insurance coverage, will be placed in a similar High Deductible Consumer Driven Health Plan, but may be enrolled in a Health Reimbursement Account (HRA) or Health Savings Account (HSA) at the discretion of the City. In the event an employee is placed in an HRA, amounts will be available for reimbursement similar to those specified for HSA accounts above. At the end of the year, if enrolled in an HRA, any money not spent is retained by the City and the employee is thus enrolled in an HSA the following year. The HRA system may also be used for other employees who do not qualify for the HSA under IRS provisions such as those enrolled in Medicare.

Employees in an HSA will have available a limited Flexible Spending Account (Limited FSA) with the option for them to contribute up to the maximum allowable limit under IRS provisions. Other controlling aspects of the FSA and health plans, such as timing of enrollment, are subject to provisions of the Medical Plan.

Employees eligible to receive City-provided medical insurance coverage, either a Family Plan or a Single Plan, may elect to decline such coverage and in lieu thereof receive cash payments from the City of \$3,000 per year. However, if the \$3,000 cash payment in lieu of coverage creates an affordability calculation penalty for the City and/or Cadillac excise tax liability under the Affordable Care Act, the City shall have the ability to then eliminate said cash payment.

In order to qualify for such cash payments, an employee must remain covered by other medical insurance that is not from the City, COBRA, Medicare or as a dependent under a parental plan, and must provide acceptable proof of such other medical insurance coverage to the City. The timing of when an employee may elect to receive such cash payments, in lieu of medical insurance coverage, is subject to provisions of the City's Medical Plan, Flexible Spending Account Plan Document and applicable provisions of IRS Section 125.

Section 15. Life Insurance. Similar to administration employees each employee will be provided a term life insurance policy in an amount equal to his or her base annual salary at the time of death, plus an equal amount for accidental death and dismemberment coverage. Similar to administration employees the City will permit employees to purchase additional life insurance coverage through payroll deduction. The rates and availability of this optional coverage shall be as specified by the insurance carrier selected by the City.

Section 16. Health and Safety Examinations.

- (a) In the interest of health, safety, or job performance, the City may require a medical or psychological examination of an employee. The City shall give reasons in writing to the employee for the required examination upon the employee's request. Any such examination shall be conducted by a licensed practitioner.

If, in the examiner's opinion, the employee's condition jeopardizes his health or safety, or that of another employee, or renders his job performance unsatisfactory, the City may relieve the employee from active employment, and he will be eligible to use his accrued sick leave.

Any City-required examinations shall be paid in full by the City. Any time spent by the employee traveling to, from, and during the examination will be work time, subject to any applicable call-in or overtime pay. Any other time necessarily lost by the employee awaiting examination or results will be treated as administrative leave. If the results of the examination

are that the employee is properly relieved from duty, this will be charged instead to accrued sick leave. The employee will be provided complete copies of all reports, findings and recommendations of the examiner.

- (b) At the employee's option, a "second opinion" medical or psychological examination may be conducted by a licensed practitioner of the employee's choice. Such examination will be paid for by the employee and time spent will not be subject to overtime provisions. Complete copies of all reports, findings and recommendations of the optional examination will be provided to the City.
- (c) If the opinions of the City's examiner and the employee's examiner are in conflict, either the City or the employee may appeal the determination to an examiner agreed upon by the first two. All relevant records and information will be made available to the third examiner, whose opinion shall be final as it relates to the specific issues originally prompting the first required examination. The cost of any third examination shall be shared equally between the City and the employee. Both the City and the employee shall receive complete copies of all reports, findings and recommendations of the third examiner.
- (d) If it is determined that the employee's medical or psychological condition did not jeopardize his health or safety, or that of other employees, or did not render his job performance unsatisfactory, all sick leave directed to be used will be reinstated to the employee and leave taken will be charged to paid administrative leave.
- (e) Employees returning from, or remaining on, leave of absence because of disability may be requested to participate in a medical or psychological examination subject to the above provisions and appeals. In such cases, the provision of reinstated sick leave provided in paragraph (d) of this article shall be in effect the date of the first required examination for any employee who was then fit for duty.

#### ARTICLE 9 - LAYOFFS, CALLBACKS, AND PROMOTIONS

Section 1. Probation. New Patrol Officers shall be on probation during the first one (1) year of their employment. If an employee is absent for twenty (20) or more working days for any reason during the probationary period, the probationary period may be extended for an equivalent number of working days. During their probationary periods employees are subject to discharge, discipline, layoff, transfer, or other personnel action in the City's discretion and without recourse to the grievance procedure or other appeal.

Section 2. Layoff and Recall. Layoffs, promotions, and recalls shall be governed by applicable state law and city charter, ordinances, rules and regulations not inconsistent with it.

Section 3. Promotions. Promotions in the Classified Civil Service shall be made in accordance with the rules and provisions of the Kettering Civil Service Commission in compliance with the provisions of the Charter of the City of Kettering.

#### ARTICLE 10 - COMMUNICATIONS

It is the intent of the parties to this Agreement that there should be a close line of communications and disclosure between and among all levels of command and the members of the bargaining unit. In order to effect this intent, the parties agree:

Section 1. The City (to include Police Division Management) and the Lodge shall jointly assist in establishing a Labor-Management Committee, which shall consist of from four to six members, half of

whom shall be appointed by the City and half of whom shall be appointed by the Lodge. Each member shall serve at the pleasure of the party appointing him, and may be replaced from time to time. The Committee shall establish its own rules of procedure and shall meet from time to time to discuss and to investigate problems of mutual concern. At such meetings there shall be full and forthright discussions, and complete disclosures if possible by both parties on mutual subjects that would directly or indirectly affect the morale and command of the department members of the bargaining unit. Meetings shall be held within a reasonable time after a request by either party having regard for the seriousness of the issues involved.

Section 2. Bulletin Boards. Bulletin boards as presently provided, and as may be installed in the future by the City, may be used by the F.O.P. for posting notices of the following types:

1. Recreational and social events
2. Elections and election results
3. General membership meetings and other related business meetings
4. General Lodge business of interest to members.

Notices must be reviewed with the Chief of Police and any bulletins or notices considered inflammatory, political, or devoted to Lodge organizing and grievance matters will not be permitted on any City bulletin boards, nor will they be permitted to be displayed in City offices, facilities, equipment, etc. If such inflammatory, political, or organizing notices appear on said bulletin boards, they shall be removed by management.

Section 3. Personnel Files. Every officer shall be allowed to review the contents of his/her personnel file at all reasonable times upon written request. Memoranda clarifying and explaining alleged inaccuracies of any document in the file may be added to the file by the officer.

#### ARTICLE 11 - GRIEVANCE PROCEDURE

Section 1.(a) A grievance is a complaint that the City has violated this Agreement. All grievances shall be handled exclusively as set forth in this procedure. Any reprimand of record shall be fully subject to the procedures of this Article.

Section 1.(b) The City shall take no action (including transfer) which unjustly and arbitrarily affects working conditions adversely to an employee. Any complaint of violation of this Section is subject to this Article.

Section 2. Grievances shall be promptly filed. To be considered, a grievance must be filed at the first step within 14 calendar days of its occurrence or when the employee first became aware (or in the exercise of reasonable diligence should have become aware) of its occurrence.

Section 3. Step 1. An aggrieved employee shall first take up his grievance with his immediate supervisor, either orally or in writing. Upon the request of either of them, the representative of the Lodge shall be present. The grievant or his representative may, with the approval of the immediate supervisor, request waiver of any steps in order to reach the level of management necessary to have authority to resolve the grievance. Said grievance shall be placed in writing in accordance with Section 2 within the time limits of Section 2.



Section 4. Step 2. If the grievance of an employee is not satisfactorily settled at Step 1, it may then be appealed by the grievant to a meeting between the grievant and the Lieutenant responsible for the employee's operation and a representative of the Lodge. To make such an appeal, the grievance must be placed in writing on the forms supplied by the City, which are attached to this Agreement as Appendix C.

Section 5. Step 3. If the grievance is not satisfactorily settled at Step 2, it may then be appealed by the grievant to a meeting between the grievant and the Captain responsible for the employee's operation and a representative of the Lodge. Any class action grievance filed by the Lodge shall be filed at Step 3 rather than Step 1 of the grievance procedure.

Section 6. Step 4. If the grievance is not satisfactorily settled at Step 3, it may then be appealed by the grievant to a meeting between the Chief of Police (or his designate) and a representative of the Lodge.

Section 7. Step 5. If the grievance has not been adjusted at Step 4, it may then be appealed by the grievant to a meeting between the Director of Human Resources (or his designate) and a representative of the Lodge.

Section 8. Step 6. If the grievance has not been adjusted at Step 5, it may then be appealed by the grievant to a meeting between a representative of the Lodge and the City Manager (or his designate).

Section 9. Step 7. Arbitrable grievances which have not been settled by the above steps may be submitted to binding arbitration. Grievances which involve a matter over which the Civil Service Commission has jurisdiction are not arbitrable. In the case of other grievances, if the Lodge is not satisfied with the answer of the City at Step 6, it may within 30 days give written notice to the City of its intent to submit the grievance to arbitration.

Section 10. Arbitration. The arbitrator shall be selected under the rules of the American Arbitration Association for labor disputes, unless in a specific case the Lodge and the City mutually agree upon an arbitrator. Either party may request the American Arbitration Association to initiate procedures for the appointment of an arbitrator at any time after the notice of intent to arbitrate has been given under Section 9. The decision and award of the arbitrator shall be final and binding upon all interested parties.

The arbitrator shall not have the power to add to or subtract from or to modify this Agreement or any Agreement supplemental hereto.

No more than one grievance shall be placed before an arbitrator at any one hearing unless the parties mutually agreed to waive this provision.

The expense of the arbitrator shall be paid equally by the City and the Lodge.

Except with respect to matters over which the Civil Service Commission has jurisdiction, the above grievance-arbitration procedure is the sole method of settling grievances. Only the Lodge, through its president or his designate, may authorize an appeal to arbitration and its decision, based upon the facts presented, shall be binding upon the employees covered by this Agreement and anyone making a claim through and on behalf of them. Upon request, the Lodge will furnish the City appropriate certification that the appeal has been duly authorized.

Section 11. The City shall give its answer at Step 1 and Step 2 within 7 calendar days; appeals from Step 1 to Step 2 and from Step 2 to Step 3 shall be within 7 days of receipt of the City's answer. Appeals from Step 3, Step 4, Step 5 and Step 6 shall be within 14 calendar days of receipt of the City's answer. The City shall give its answer at Step 3, Step 4, Step 5 and Step 6 within 14 calendar days of receipt of

the grievance at that Step. Time limits may by agreement be waived. Steps within the Police Division which do not follow the grievant's chain of command will be waived.

Section 12. In the event that the City fails to answer in the time provided, the grievance shall automatically be considered at the next step. In the event that a grievance is not filed or appealed within the time provided, it shall be considered withdrawn.

Section 13. The grievant may attend Steps 1 through 6 of the grievance procedure without loss of pay as a result of necessary attendance during scheduled working hours; if more than one grievant is involved in a meeting one of them shall be selected as spokesman. Upon sufficient notice to and agreement by the City, necessary witnesses may attend Steps 1 through 6 without loss of pay as a result of necessary attendance at a grievance meeting during scheduled working hours.

## ARTICLE 12 - SELF-INCRIMINATION

Section 1. The City may require a member of the bargaining unit to submit a written report, either by rule or specific request, which may show or tend to show that the employee submitting the report has committed a crime, subject to the following:

1. The report may not be used at any stage (grand jury or trial) in any criminal proceeding against the employee.
2. The report may be used by the City in taking action and in defending such action, with respect to discharge or discipline of the employee.
3. This section shall not prohibit the criminal prosecution of the employee based upon evidence other than the report (to the extent that this is constitutionally permissible).

Section 2. A formal charge of misconduct shall, regardless of its point of origin, (a) be placed in writing, (b) specify the misconduct, and (c) disclose the witnesses to be relied upon (other than as rebuttal witnesses), except in cases in which the Chief determines that the identity of a witness shall be not disclosed in advance, in which case a continuance will not be opposed by the City once the identity is disclosed. C is satisfied if, 15 days before any Civil Service or arbitration hearing, the City provides a list of witnesses (other than rebuttal) that the City expects to call at the hearing. The Lodge or employee involved will have the same obligation. One party's failure to comply waives its right to complain if the other party fails to comply.

Where the Department has informed an employee he is being investigated for misconduct, and the investigation has taken more than 45 days from its beginning, the Department will, upon the employee's request, explain to the employee why the investigation has not been completed. The explanation, if requested, will occur 45 days after the investigation began or when the employee is informed of the investigation, whichever is later.

Section 3. Any reprimand of record shall be fully subject to the procedures of Article 11 if an appropriate timely grievance is initiated by the individual reprimanded. When an individual is to be reprimanded of record, he shall have the right, upon request, to have a representative of the Lodge present.

Section 4. After a reprimand has been in a Patrol Officer's personnel file for a period of two years with a clean slate, the Patrol Officer may make a written request to the Chief of Police that it be removed. It shall be at the discretion of the Chief of Police to either honor or deny the Patrol Officer's request,

however, no denial shall be unjust and arbitrary. The City may retain copies of removed reprimands to be used for purposes other than substantiating progressive discipline against that Patrol Officer or for correcting the record if a Patrol Officer seeks to avoid discipline which is otherwise justified by inaccurately claiming a work record of no discipline. Removed reprimands shall be sealed or similarly secured, accessible only through the City Manager, the Police Chief, or the Director of Human Resources.

Section 5. Just Cause. The City may discipline or discharge Patrol Officers who have completed probation for just cause and only for just cause.

Section 6. Patrol Officers will not be required or ordered to sign any disciplinary form except to acknowledge receipt of that form. Patrol Officers, upon request, will be given a copy of any such form which he or she signs.

Section 7. Advance Information.

- (a) Formal Hearings. A formal hearing is one before the Chief which can result in written findings by the Chief which could lead to a disciplinary suspension or discharge. In a formal hearing the City must give the officer a written charge of misconduct at least five days before the hearing. If the officer requests it, the City will give him the following information at least five days before the hearing:
  - 1. All documents, then in its possession, which the City plans to use at the hearing.
  - 2. All other supporting documents, then in its possession, unless the Chief determines not to produce some or all of them. This withholding must not be arbitrary and unjust.
- (b) Loudermill Hearings. A Loudermill Hearing is one which is necessary to comply with Loudermill requirements, but which cannot result in written findings pursuant to paragraph (a) above. Notification must comply with Loudermill requirements.

Section 8. Polygraph Examinations. Police officers may only be ordered to take a polygraph examination by the Chief of Police. The order to take the examination may not be unjust and arbitrary. In any arbitration or Civil Service hearing, relevant evidence that consists of the results of a polygraph examination which has been lawfully carried out by an accredited examiner may be excluded only if determined that the order was unjust and arbitrary.

These polygraph examinations will be run by a polygraph operator who is not a member of the Kettering Police Department, unless the officer and the Chief agree to it. When an employee is ordered to submit to a polygraph examination, the information gained cannot be used against the employee in any subsequent criminal proceedings.

Section 9. Performance Evaluations. Performance evaluations shall not be unjust and arbitrary. The signature of a Patrol Officer shall be required on performance evaluations. Such signing shall initially mean that the employee has received and read the evaluation. No subsequent evaluation comments may be made on record copies once signed by the employee. The performance evaluation is subject to the grievance procedure including arbitration.

Section 10. Personnel File. If a request is made to inspect and/or copy records within an employee's personnel file by an outside source, management shall provide written notification to the employee of the request as soon as practicable.

## ARTICLE 13 - SUSPENSION FROM DUTY

Section 1. If a Patrol Officer is suspended from duty pending the completion of an investigation or awaiting a hearing (interim suspension), he shall continue to be paid at his normal base rate, providing he is available and capable of performing his full duties, until such time as he has had a hearing before the Chief of Police. The hearing before the Chief of Police may be on the full charges of the investigation or as a preliminary hearing to determine if there is a basis for the interim suspension to be without pay. The City will continue to pay its share of medical and life insurance premiums during the interim suspension or any disciplinary suspension.

Section 2. If a Patrol Officer receives a disciplinary suspension of five days or fewer, he may request that he forfeit this time from his accrued vacation on an hour-for-hour basis instead of serving the actual suspension. The Chief, at his sole discretion, will determine if the Patrol Officer's request is approved. The Chief's determination must not be unjust and arbitrary. If such a request is made and approved, the suspension shall be deemed to have been accepted by the Patrol Officer and the Lodge, and the discipline shall not be appealable through the grievance procedure. The records shall reflect that a suspension occurred, and the discipline shall not be considered less severe than an actual suspension. The Chief's decision to approve or not approve the request is not appealable through the grievance procedure.

## ARTICLE 14 - TUITION

Section 1. The City will pay 80% of the tuition costs for courses directly related to a permanent employee's current position or his preparation for promotion with a maximum payment of \$1,000 per year per employee.

Section 2. An employee is eligible for this assistance only when no other outside source of funding is available. Once the City has approved payment for tuition costs, such approval may not be withdrawn.

Section 3. Requests for educational assistance must be submitted by an employee to the City Manager through the Police Chief and the Director of Human Resources.

Section 4. If the employee's service with the City is terminated within two (2) years of completion of the course for any reason other than disability retirement, the City Manager may require that the employee return the City's outlay on a pro rata basis.

The City Manager may, in his sole discretion, authorize the advance of educational assistance for an employee from future years and formulate an arrangement for pay back to the City should the employee terminate his service with the City.

## ARTICLE 15 - WAIVER

The parties acknowledge that during the negotiation which resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining, and that the understanding and agreement arrived at by the parties after the exercise of the right and opportunity are set forth in this Agreement.

During the term of this Agreement, each party waives any right to request the other party to negotiate on any subject, except to the extent that this Agreement provides otherwise and agrees that it shall take no

action to compel the other party to negotiate on any subject, except as is specifically provided for in Article XVII of this Agreement.

#### ARTICLE 16 - EFFECT OF LAWS

This Agreement is subject to all applicable laws, regulations or provisions of the United States, State of Ohio, the City of Kettering Charter, Kettering General Ordinances and Resolutions, and Kettering Civil Service Rules and Regulations. All provisions of this agreement shall, where reasonably possible, be interpreted to comply with said laws, provisions, ordinances, regulations or applicable judicial decisions thereunder.

The City Council shall adopt no ordinances, resolutions, or other legislative matters in conflict with this Agreement. Neither the City Manager, nor the Chief of Police, nor their subordinates shall adopt or issue any rules, regulations, orders or other executive directive in conflict with this Agreement.

In the event that any provision of this Agreement is contrary to the law or any authority set forth above, it shall be of no further force and effect, but the remainder of this Agreement shall remain in full force and effect. When either party feels that a provision has been invalidated, it will notify the other in writing. In any such event, and upon written request by either party, the parties to this Agreement shall meet at a mutually agreeable time in an attempt to modify the invalid provisions of this Agreement by good faith negotiations. Prior to any such meeting, the City may take action it should deem necessary in good faith to comply with the law. Any such action shall be subject to the grievance/arbitration procedures hereafter for the purposes of determining whether the City acted within the scope of the paragraph. By entering into this agreement, or by making any reference to Chapter 4117 of the Ohio Revised Code, neither party in any way waives any claim that that law, or any part of them, may be unconstitutional or otherwise invalid.

Copies of written rules, regulations, Personnel Instructions, and/or orders or other matters which affect working conditions, and any changes or modifications thereof shall be furnished to the F.O.P.

#### ARTICLE 17 – RANDOM DRUG/ALCOHOL TESTING

In addition to the City's right to conduct Reasonable Suspicion Drug and Alcohol Testing, employees may be drug and alcohol tested randomly. Such random testing protocol shall begin 1/1/2016 and employees will have the opportunity to attend training on the testing process prior to 1/1/2016.

Employees will be randomly selected for unannounced drug and/or alcohol testing on an indiscriminate basis that assures that all employees shall have an equal chance of being selected; as a result, some employees may be tested more than once per year while other employees may not be tested at all. Testing may be administered up to 4 times each calendar year at the discretion of the City and 10% of the total pool shall be selected for each test date. The selection of employees from the random pool shall be performed by the City's certified vendor. When an employee is selected for a random drug and/or alcohol test, the employee shall promptly submit to such test(s). Patrol Officers will be placed in the same pool as other Kettering Police Department employees that are subject to random testing. Except as provided herein, all random drug and/or alcohol tests will be provided at the cost of the City.

All employees sworn and non-sworn subject to random drug and/or alcohol testing shall be placed in a single pool of Police Department employees. The selected employees will be tested in the least disruptive manner and testing of selected employees shall occur during their assigned shifts on the date of the test(s).

The random drug and/or alcohol testing shall be conducted by a certified vendor of the City's choice. At a minimum, such vendor will be certified by the Department of Health and Human Services (DHHS), or certified by a DHHS recognized certification program, or Substance Abuse and Mental Health Services (SAMHSA), or certified by a SAMHSA-recognized certified program or any other future named agency that has jurisdiction over such standards. The screening panel and acceptable limits for random drug testing shall be consistent with the City's pre-employment screening panel and acceptable limits in place for Police Department personnel at the time the random drug/alcohol test is conducted.

No drug test shall be considered positive until it has been confirmed by a gas chromatography/mass spectrometry full scan test or its equivalent. If the initial drug test is positive for any controlled substance, a confirmation test shall be run on the same sample using the most accurate testing method reasonably available. An employee who tests positive may, at his or her own expense, have another test run on the same sample. If the analysis of the "primary" specimen confirms the presence of an illegal controlled substance, the employee has 72 hours to request that the "split" specimen be retested at the same lab or be sent to another certified laboratory for analysis, at the employee's expense. In the event that the "split" specimen sample reveals no confirmation of a controlled substance, the City will reimburse the employee for the cost of the "split" sample test.

Random alcohol testing shall be conducted by a BAT (Breath Alcohol Test). In determining positive or negative results or removal from performing safety sensitive functions/duties the City will adhere to the standards and guidelines established by the Federal Motor Carrier Safety Administration (FMCSA) or any other future named agency that has jurisdiction over such standards. Employees shall be provided with a copy of such results standards on an annual basis or more frequently in the case of modification of such standards by the applicable agency.

If an initial drug test is positive, an employee may be suspended pending receipt of the confirmation test. A positive alcohol and/or positive drug confirmation test shall be deemed a violation. If an employee refuses to submit to a drug and/or alcohol test; or has a positive alcohol test; or a positive drug confirmation test the City may initiate disciplinary action, up to and including dismissal subject to the just cause standard in Article 15 section 4.

If an employee has a positive drug and/or alcohol test on a test covered by this Article, the Union, the affected employee, and the City may enter into a "Last Chance Agreement."

A positive random drug and/or alcohol test by itself will not result in a Kettering Police Department initiated prosecution. Information resulting from such tests will not be divulged except to the extent necessary to protect the legitimate interest of the City or to the extent required by law.

The Chief may adopt a General Order to administer the random drug and/or alcohol testing program so long as such Order is not in conflict with this Article.

## ARTICLE 18 - DURATION

Section 1. This Agreement shall be in full force and effect through February 14, 2021. All provisions shall be effective from and after the signing date of this agreement, unless otherwise specified, or as soon thereafter as benefit coverage can be obtained in the normal course of business or as provided by law.

Section 2. If either the City or the Union desires to terminate, modify or negotiate a successor agreement, it shall serve written notice upon the other party of its desire not less than 90 days prior to the expiration date of this Agreement.

This Agreement originally signed the 25<sup>th</sup> day of July 2018.

**FRATERNAL ORDER OF POLICE  
LODGE NO. 92**

**CITY OF KETTERING, KETTERING  
OHIO**

By: Ry Vandegrift  
Ryan L. Vandegrift  
President  
Kettering Lodge, FOP

By: Mark W. Schwieterman  
Mark W. Schwieterman  
City Manager

By: Andrew DiSalvo  
Andrew DiSalvo  
Vice President  
Kettering Lodge, FOP

By: Sara E. Mills Klein  
Sara E. Mills Klein  
Director of Human Resources

By: Jason Kramer  
Jason Kramer  
Secretary  
Kettering Lodge, FOP

By: Christopher N. Protsman  
Christopher N. Protsman  
Chief of Police

By: K. Christopher Sanford  
K. Christopher Sanford  
Trustee  
Kettering Lodge, FOP

By: Mark E. Burian  
Mark E. Burian  
Police Captain

By: Doug Stewart  
Doug Stewart  
Trustee  
Kettering Lodge, FOP

By: Patti Houser  
Patti Houser  
Human Resource Manager

By: Jenny Smith  
Jenny Smith  
Human Resource Manager

**Appendix A**  
**Memorandum**



MEMORANDUM

DATE: January 16, 1984  
TO: A. L. Jordan, Assistant City Manager for Administration  
FROM: Law Director  
RE: FOP Contract Proposal on Legal Representation

The City provides full legal services in defense of all acts or omissions of a City employee or official for lawsuits filed against such employee filed in any State or Federal court whether appointed or elected, provided the acts or omissions were performed within the scope of the individual's employment. This includes those situations where the employee's personal property was damaged/lost during the course of employment, the City provides such legal services necessary in an endeavor to recover the property or its value from the wrongdoer.

Exceptions:

A. Where the acts or omissions of the employee/official were a result of an intent or with malice of thought to directly cause injury or damage to others without legal justification, the City is under no obligation to provide legal services.

B. If the acts or omissions constitute a crime or traffic violation under ordinance, State or Federal statute or where the City is an adverse party, the City is under no obligation to provide such legal services.

C. Such legal services will not be provided to family members of employees unless such family members at the time of the claimed injury or loss, consistent with City regulations, accompanying the City employee in the furtherance of the latter's duty.

J.J.A. *JJA*

RECEIVED

JJA:cm

JAN 17 1984

CITY MANAGER  
CITY OF NEW BRUNSWICK

**Appendix B**  
**Grievance Form**

# GRIEVANCE FORM

to be completed by  
Kettering Police Patrol Officers

NAME \_\_\_\_\_ ADDRESS \_\_\_\_\_

Date of Occurrence of Incident Resulting in Grievance \_\_\_\_\_

Detailed Description of Complaint \_\_\_\_\_

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Articles and Sections Allegedly Violated \_\_\_\_\_

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APPEAL TO  
STEP 2:                      Date Filed at Step 1 \_\_\_\_\_ Supervisor's Name \_\_\_\_\_

Lodge Representative's Name \_\_\_\_\_

Supervisor's Determination/Date Issued \_\_\_\_\_

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APPEAL TO  
STEP 3:                      Date Filed at Step 2 \_\_\_\_\_ Lieutenant's Name \_\_\_\_\_

Lodge Representative's Name \_\_\_\_\_

Lieutenant's Determination/Date Issued \_\_\_\_\_

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APPEAL TO  
STEP 4:                      Date Filed at Step 3 \_\_\_\_\_ Captain's Name \_\_\_\_\_

Lodge Representative's Name \_\_\_\_\_

Captain's Determination/Date Issued \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

APPEAL TO  
STEP 5:                      Date Filed at Step 4 \_\_\_\_\_

Lodge Representative's Name \_\_\_\_\_

Police Chief's Determination/Date Issued \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

APPEAL TO  
STEP 6:                      Date Filed at Step 5 \_\_\_\_\_

Lodge Representative's Name \_\_\_\_\_

Director of Human Resources' Determination/Date Issued \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

APPEAL TO                      Notice to be provided to the Director of Human Resources in the form  
ARBITRATION:                of a letter signed by the President of the Lodge.  
(STEP 7)

SIGNATURE \_\_\_\_\_

Grievant